

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
07-CV-1535(JMR/JSM)

Wallace James Beaulieu)	
et. al.)	
)	
v.)	ORDER
)	
Cal R. Ludeman et. al.)	

This matter is before the Court on the Report and Recommendation [Docket No. 47] issued on February 7, 2008, by the Honorable Janie S. Mayeron, United States Magistrate Judge. The parties have timely objected to the Report.

After a de novo review of the record, and based on all of the files and proceedings herein, the Court finds it in the interest of justice to reinstate and remand plaintiffs' mail claim. This claim requires further examination under the Sixth and Fourteenth Amendments.

Accordingly, IT IS ORDERED that:

1. Defendants' motion to dismiss [Docket No. 31] is granted in part and denied in part. Specifically:

- a. Defendants' motion to dismiss is granted as it relates to the following:
 - (i) All Equal Protection claims asserted in the complaint;
 - (ii) The claim of plaintiffs Beaulieu and Yazzie that they were subjected to strip searches upon arrival at the annex in retaliation for filing a lawsuit;

- (iii) Plaintiffs' procedural due process claim as it relates to 20-inch televisions sent out from the annex; and
- (iv) Plaintiffs' First Amendment telephone access claim related to the alleged excessive rate charged for telephone calls.

These claims are dismissed with prejudice.

- b. Defendants' motion to dismiss is denied as it relates to plaintiffs' access-to-courts/mail claim. This claim is reinstated and remanded for further examination under the Sixth and Fourteenth Amendments.
- c. Defendants' motion to dismiss is denied as to the remainder of the complaint.

2. The request of plaintiffs Mike O'Donnell and Aaron Jones that this Court dismiss their action against defendants without prejudice [Docket Nos. 42, 44] is granted.

3. Plaintiffs' motion to strike [Docket No. 35] is denied.

IT IS SO ORDERED.

Dated: June 17, 2008

s/ James M. Rosenbaum
JAMES M. ROSENBAUM
United States Chief District Judge